

	Link to Agency Interim Order
	OAH 46-1800-20341-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF HUMAN SERVICES

In the Matter of the Temporary Immediate
Suspension of the Adult Foster Care
License of Debbera Kline

**ORDER STAYING
PROCEEDINGS AND
RECOMMENDATIONS**

This matter came on for a telephone prehearing conference before Administrative Law Judge Barbara J. Runchey (the ALJ) on June 9, 2009 and June 15, 2009.

Geoffrey A. Hjerleid, Senior Assistant Olmsted County Attorney, appeared on behalf of the Olmsted County Community Services Department (the County) and the Minnesota Department of Human Services (DHS). William L. French, Esq. appeared on behalf of the Licensee, Debbera Kline (Licensee).

Based upon the record in this proceeding, with the agreement of the parties, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following Order and Recommendations:

ORDER

IT IS HEREBY ORDERED,

1. That further proceedings in this contested case are STAYED pending further orders or action of the Commissioner; and

2. That if the Commissioner concludes that no licensing sanctions against the Licensee's adult foster care license pursuant to Minn. Stat. § 245A.07, subd. 3, are warranted, or if the Licensee fails to perfect an administrative appeal if such sanctions are imposed, the stay of proceedings shall be DISSOLVED, and the Administrative Law Judge will schedule a prehearing conference to determine the course of further proceedings.

RECOMMENDATIONS

The Administrative Law Judge respectfully RECOMMENDS:

1. That in accordance with the stipulation of the parties, the Commissioner CONTINUE the Order of Indefinite Suspension entered on February 10, 2009, pending consolidation of this contested case with any future contested case proceeding

regarding a licensing sanction issued against the Licensee's adult foster care license pursuant to Minn. Stat. § 245A.07, subd. 3; and

2. That the Commissioner CONSOLIDATE this contested case proceeding and any future contested case proceeding regarding a licensing sanction issued against the Licensee's adult foster care license pursuant to Minn. Stat. § 245A.07, subd. 3;

Dated: June 17, 2009

s/Barbara J. Runchey
BARBARA J. RUNCHEY
Administrative Law Judge

MEMORANDUM

This contested case was initially set for hearing on May 6, 2009. The issue is whether pursuant to Minn. Stat. § 245A.07, the Commissioner of the Department of Human Services should indefinitely suspend Debbera R. Kline's foster care license. Thereafter, with the consent of the parties, the ALJ continued the hearing for the reasons set forth in a May 12, 2009 Order.

The ALJ then conducted a prehearing conference on June 9, 2009. Prior to that prehearing conference, Licensee raised motions more fully set forth in her Notice of Motion and Motion to Dismiss and for Other Relief dated May 13, 2009. Licensee's Motion, among other relief, contained the following discovery requests:

5. For an Order directing Olmsted County to produce any and all information related to an autopsy that was conducted on M.O., a 94-year old female residing in Licensee's adult foster care facility.
6. For an Order directing Olmsted County to produce any and all information related to a complaint the Licensee made alleging that D.B. one of her employees, had abused a vulnerable adult.

Thereafter, counsel for the County submitted a letter dated June 11, 2009 indicating that a maltreatment investigation involving the Licensee had been completed and additional negative licensing action involving licensee has been commenced. The Licensee's attorney subsequently asserted that it was the Licensee's intention to request an administrative appeal of any negative licensing action.

Counsel for both of the parties agreed that the Order of Indefinite Suspension should be continued pending further negative licensing proceedings so that all matters, including the Licensee's appeal of the Order of Indefinite Suspension and anticipated appeals of the maltreatment matter and negative licensing actions could be heard together. The parties further agreed that a prehearing conference should be scheduled

prior to the consolidated hearing date so that procedural issues including any issues regarding discovery can be timely raised. At the request of the parties, the ALJ has also issued a Second Protective Order allowing information to be released to the Licensee relating to an autopsy conducted on M.O., as well as information relating to a complaint made by the Licensee alleging D.B., one of her employees had abused a vulnerable adult.

B. J. R.